

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 8074

BILL NUMBER: SB 404

DATE PREPARED: May 2, 2001

BILL AMENDED: Apr 29, 2001

SUBJECT: Certified Food Handlers.

FISCAL ANALYST: Kathy Norris

PHONE NUMBER: 234-1360

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (CCR Amended) This bill requires that, after December 31, 2004, every food establishment must have at least one certified food handler. The bill exempts certain food handling activities and certain institutions from the requirement to have a certified food handler. The bill requires a certified food handler to hold a certificate recognized by the Conference for Food Protection or an equivalent nationally recognized certification program as determined by the State Department of Health. The bill also preempts local health departments from: (1) regulating food handlers; (2) imposing any sanitary standards or locally prescribed monetary penalties for the violation of any state law or rule concerning food handling or food establishments; and (3) establishing any requirements or standards for the installation of food handling machinery in a food establishment. The bill authorizes a corporation or local health department to file a petition with the State Department requesting changes to the rules concerning food handling machinery, sanitary standards for food handling or food establishments, or civil penalties authorized under IC 16-42-5-28, and requires the State Department to hold a public hearing concerning the petition. The bill also authorizes the State Department, for good cause, to grant a variance from one or more of the state rules concerning food handling machinery or sanitary standards for the operation of food establishments. It also requires the State Department to establish civil penalties for violations of food establishment rules. The bill provides local enforcement authority for the schedule of civil penalties established by the State Department and requires that the amounts collected be deposited in the corporation's or local health department's general fund. It provides that either the State Department or a local health department, but not both, may collect a civil penalty from a food establishment for a violation of a state law or rule. It also permits a corporation or local health department that, before January 1, 2001, adopted: (1) sanitary standards concerning food handling or food establishments that are different from the state rules; or (2) monetary penalties for the violation of any state or local law or rule concerning food handling or food establishments; to continue to enforce those locally prescribed sanitary standards or monetary penalties until: (a) the State Department adopts permanent rules in those areas; or (b) July 1, 2003.

Effective Date: (CCR Amended) Upon passage.

Explanation of State Expenditures: (Revised) The Executive Board of the Department of Health is required to adopt rules that establish standards for the implementation of this bill. The Department would be required to recognize certification programs such as the Conference for Food Protection or other equivalent nationally recognized programs as requirements for certified food handlers in Indiana.

The number of potential food handlers is indeterminable, but is expected to be significant given the many different types of facilities that store, prepare, display, or serve food to the public. As an illustration of the potential number, the U.S. Census Bureau reports that in 1994, 34,500 food stores and 10,200 eating and drinking places were located in Indiana, for a total of 44,700 establishments. However, these figures may not include all establishments that would need a certified food handler. Other establishments whose primary focus is not food, such as drug stores; gasoline stations; amusement facilities; institutional cafeterias in schools, etc., may not be included in the data.

Costs for this bill will be determined by the rules adopted by the Department of Health. The cost associated with the promulgation of rules by the Department should be available within the current level of appropriations.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. According to the State Budget Agency's "General Fund Reversion Summary for State Fiscal Year 1999-2000", the Department of Health reverted \$993,931 in State General Funds at the end of FY 2000. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

In addition to the above, state and local facilities that provide food to the public could experience an increase in expenses. Requiring governmental facilities to employ certified food handlers could increase personnel costs, or the facilities could elect to pay for training of current employees. Facilities that provide food via contract may also experience an increase in costs if any additional expenses experienced by contractors are passed on to the governmental unit for whom the contractor provides services.

Explanation of State Revenues: (Revised) The Department of Health is required to establish a schedule of civil penalties that may be imposed to enforce the chapter or the rules that are adopted to implement the bill. Penalties adopted may not exceed \$1,000 for each violation per day. Revenues received as a result of the civil penalties established for the violation of the provisions of this bill or the adopted rules will be contingent on the number and type of violations that may be assessed a fine. Civil penalties are deposited into the state General Fund.

Explanation of Local Expenditures: See Explanation of State Expenditures, above.

Explanation of Local Revenues: (Revised) Revenues received as a result of local enforcement authority for the schedule of civil penalties established by the State Department are required to be deposited in the corporation's or local health department's general fund.

State Agencies Affected: Department of Health, state facilities and institutions that prepare food for patrons and the public in consideration of payment.

Local Agencies Affected: Local health departments and local government facilities that offer food to the public.

Information Sources: Statistical Abstract of the United States, 1997; U.S. Department of Commerce; Bureau of the Census.